



## **MINUTES OF THE LAND RECLAMATION COMMISSION MEETING**

September 22, 2005

Chairman, Jim DiPardo called the meeting to order at 10:00 a.m., at the Missouri Department of Natural Resources, 1738 East Elm Street, Jefferson City, Missouri.

**Commissioners Present:** Jim DiPardo; Dr. Gregory Haddock; Nick Matherly; Mimi Garstang and Kevin Mohammadi (alternate for) Ed Galbraith

**Staff Present:** Larry Coen; Tom Cabanas; Bill Zeaman; Steve Femmer; Andy Reed; Clint Bishop; Mike Mueller; Mike Larsen and Becky Myers

**Others Present:** Tim Duggan, Attorney General's Office; Stephen Preston, OSM; Mike Carlson, Gredell Engineering; Steve Pfaff, Bussen Quarries; Steve Poplowski, Attorney at Law; James D. Rolls, AEI; Dan A. Upp, AEI; Andy Gilmore, OSM; Ervin Barchanger, OSM; Steve Rudloff, MLPA; Larry Griffin, OSM; Jim Hull, SWMP;; Jim Dorn, Georgia-Pacific; Michael Pfeifer, Alan and Donna Leonard and Andrea Nuckels.

### **MINUTES OF THE JULY 28, 2005 MEETING**

Dr. Haddock noted that page 16 should read "quit" claim not "quick" claim and asked that the change be made. He then made a motion to approve the minutes once this change has been made. Ms. Garstang seconded the motion. Motion carried unanimously. The changes will be made and presented at the November 16, 2005 meeting

### **PERMITS, CONTRACTS AND DESIGN**

#### **AML Status Report**

Mr. Clint Bishop of the Land Reclamation Program staff informed the Commission that there were currently no abandoned mine targets under design, but staff is in the process of visiting the current inventory of abandoned mine sites to select proposed project sites for future reclamation work. It is the intention of the program to select these project sites and contract for air photography in October. The Land Reclamation Program is also aware of mine shafts that require no mapping, but the program will not get the additional reclamation funds until January.

The program had an abandoned mine emergency complaint. The complaint was brought to staff's attention by the owners of a house located at 5335 Winona in the Tower Grove area of St. Louis. The foundation of this house at 5335 Winona moved

more than an inch in a matter of weeks. Since this house is located in a known mining area the program could not rule out the possibility of this being a mining issue. However, after a thorough investigation, it was concluded that there was no evidence of past mining. It was concluded that there was inadequate footing for the foundation. The homeowners will seek contractors to fix this problem on their own.

### **AML Maintenance Activities**

The program has a small project at Perche Creek in Boone County. The emergency spillway was damaged in the spring of 2005 and washed out causing a small amount of erosion. This will be a small project that the land reclamation program will contract to reshape and add a small amount of rock to this area.

### **Coal Bond Forfeiture**

Mike Larsen made this presentation. Since July, staff has conducted several on the ground inspections and general visits to bond forfeiture sites. The focus of these inspections and visits was to determine the condition of these sites and see what additional work, if any, is needed to prepare them for presentation to release further liability of the state.

The sites that were either visited or inspected since July are: Riedel Energy, Inc., Yates Energy and Development, North American Resources Silver Creek Mine, Universal Coal and Energy Co., Inc. - Mine #51, Universal Coal and Energy Co., Inc. - Mine #7, Universal Coal and Energy Co., Inc. - Mine #4, Universal Coal and Energy Co., Inc. - Mine #3, Universal Coal and Energy Co., Inc. - Howard county processing plant, Bill's Coal Company, Amearth Corporation, Midwest Coal - Tiger Mine, Alternate Fuels, Inc. - Blue Mound Mine.

Mr. Larsen stated that there are four sites that are old and these sites have been determined to be eligible for liability release. Either minor maintenance work was needed or no work was needed on these sites. If maintenance was needed it has been completed and the four sites will be recommended by the staff for liability release.

These sites are divided into two categories; "A" Pool Sites and "B" Pool sites.

**"A" Pool Site** recommended for release is Yates Energy & Development in Randolph county.

**"B" Pool Sites** recommended for release are Universal Coal and Energy Co., Inc. - Yates Processing Plant in Randolph county, Universal Coal and Energy Co., Inc. - Mine #7 in Howard county. This site will be presented for liability release in two phases; one in September and one at the November commission meeting. Lastly, Universal Coal and Energy Co., Inc. - Howard county processing plant in Howard county.

Universal Coal and Energy Co., Inc. - Mine #51 should be ready for presentation to the Commission for release at the November meeting.

## **INDUSTRIAL MINERALS**

Prior to this presentation, southwest regional office, Water Protection Specialist, Brooks McNeil, was connected to this meeting via conference call. He asked to be included in this meeting at the request of a concerned citizen. Department staff, Bill Zeaman, Environmental Specialist made the presentation. During the last commission meeting there was a decision to table the request for a hearing concerning the permit application submitted by Ash Grove Aggregates, Inc. The decision to table the request for a hearing was based on Robert Harting stating that Rex Barham now owns the Wendell Fisher property, which is considered contiguous to the Mine Plan Boundary. Ash Grove Aggregates obtained the record of last known addresses from a 2001 edition of a county plat map, rather than obtaining those names and addresses from the County Assessor's Office. The day after the last commission meeting, Ash Grove Aggregates sent via certified mail the Notice of Intent to Operate a Surface Mine. After further investigation of properties located adjacent or contiguous to a mine plan boundary, on August 11, 2005, Ash Grove Aggregates also sent via certified mail a Notice of Intent to Operate a Surface Mine to Bernard Krtek. Bernard Krtek did receive the piece of certified mail on August 15, 2005. Rex Barham and Bernard Krtek were provide 30 days from the date on the letter to provide comments, request a public meeting or request a formal hearing to the Staff Director. The Staff director did not receive a response from Rex Barham or Bernard Krtek by the date of this memorandum. As far as Mr. Zeaman is aware they have not submitted any further information in writing.

As a brief piece of new information - On July 27<sup>th</sup>, the day before the July 2005 Commission meeting the Missouri Department of Conservation did sample Bear Creek near the proposed Mine Plan Boundary. Mr. Robert Harting did mention the sampling during the July 28<sup>th</sup> meeting. Information from the Missouri Department of Conservation indicates that there were no Niangua darters present. During the sampling period some poor water quality tolerant species of darters, shiners, creek chubs and other species were collected. There was no flowing water at the point of sampling due to the drought. Furthermore, cattle that are spending a lot of time in the remaining pools are presently negatively impacting Bear Creek.

The Notice of Recommendation made by the Staff Director on July 8, 2005 has not changed. On July 8, 2005, the Staff Director did recommend approval of the pending mining permit application, because in fact the company has satisfied all the requirements of The Land Reclamation Act.

Because this issue was tabled during the last meeting, the staff would like for the Land Reclamation Commission to make a decision on the request for a hearing concerning the permit application submitted by Ash Grove Aggregates, Inc. There were representatives from Ash Groves Aggregates in the audience; however, there were no adjacent landowners present.

Dr. Haddock moved that the hearing request be taken off the table from the last meeting. Mr. Mohammadi seconded the motion. Motion was voted on and carried unanimously.

Mr. DiPardo asked if anyone from Ash Groves would like to address the audience and Commission. Ryan Sutherland, General Manager of Ash Grove took the floor and offered to answer any questions that needed answered. Neither the Commission nor the audience had any questions.

Mr. Coen noted that at the last meeting there were several from the audience that presented issues and although they weren't present for this meeting their concerns were considered. A short discussion followed with Mr. Zeaman explaining those issues. One of them being, an endangered species in Bear Creek, however, the water at Bear Creek was tested and it was found that the endangered species were about five miles further downstream.

Other issues included blasting, truck noise, travel way safety issues and faultline concerns. Also, the Land Reclamation Program did receive one letter with comments only and another was submitted requesting a public hearing. The Land Reclamation Program did respond to both letters, however, since the request for the public hearing was not submitted in the allotted time it was addressed in another letter, as well.

Dr. Haddock noted that there are numerous faultlines in MO and most are inactive. Ms. Garstang also noted that the faultline in question has been inactive in recent time. Also, at the last meeting, the health of a particular individual was brought to the attention of the Commission. Although the health of an individual is of concern to the Commission, they do not have jurisdiction over various issues, some of which are blasting, truck noise, and travel way safety problems and how they relate to health problems.

Dr. Haddock made a motion to deny the hearing request and grant the permit application for Ash Groves Aggregates, Inc. Ms. Garstang seconded the motion. The Commission voted and the motion carried unanimously. The call to Brooks McNeil was then disconnected.

**BUSSEN QUARRY:** On April 15, 2005, the Missouri Department of Natural Resources Land Reclamation Program received a permit application from Bussen Quarries, Inc. proposing to mine limestone on 809 acres in St. Louis and Jefferson Counties. After the application was deemed complete the company published the public notice once a week, beginning on June 3, 2005, for four consecutive weeks in the *Countian* a newspaper that is qualified to publish Public Notice's pursuant to Section 493.050 RSMo., in both St. Louis and Jefferson Counties. The company also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials, adjacent and contiguous landowners. The addresses of adjacent and contiguous landowners were obtained from the local Assessor's Office and by other means. This proposed permit application of an 809-acre limestone mining

operation is located on the south side of I-44 located near St. Louis in Jefferson and St. Louis counties. The proposed mine operation timeframe is to the year 2042.

The Staff Director received seven letters and one piece of electronic mail during the comment period concerning the proposed amendment and expansion application of the Antire Quarry. There were also an additional 31 letters received requesting a meeting and hearing after the closing of the public comment period. None of the 31 late letters expressed an issue, only the desire for a meeting or a hearing. One of the first letters and the piece of electronic mail provided comments only. The Staff Director received two letters with the same verbiage from the Trustees of the Antire Valley Homeowner's Association requesting a public meeting and a formal hearing. Similarly, the Staff Director received two letters with the same verbiage from Andrea Nuckles, who wrote in on her own behalf requesting a public meeting and a formal hearing. Letters from Michael Pfeifer and Clay Crain request a public meeting and a formal hearing.

We did contact Bussen Quarries to see if they would entertain a public meeting as identified in The Land Reclamation Act. During a telephone contact with Bussen Quarries we learned that they would meet with the people, but not a public meeting as identified in The Land Reclamation Act. Therefore, we present a request for a hearing before the Commission.

The Land Reclamation Act addresses the issues of public notification requirements, legal description/location requirements and a request for a public meeting and formal hearing. The Department does not provide protection concerning blasting related issues, travel way safety issues or the 1000-foot set back as identified in Warranty Deeds.

On August 25, 2005, the Staff Director did inform the people requesting a hearing of the time, location of and how to prepare for this Commission meeting. Informational letters about today's meeting were also sent to the authors of the 31 late letters.

Mr. Zeaman explained to Mr. DiPardo that the Land Reclamation Act of Section 444.773.3, RSMo. requires the Director to consider any written comments when making the notice of recommendation. After consideration of comments provided in letters, it is the Director's recommendation to issue the permit application involving 809 acres in St. Louis and Jefferson Counties sought after by Bussen Quarries, Inc. The Staff Director did recommend approval of the pending mining permit application, because the company has satisfied all of the requirements of The Land Reclamation Act.

Mr. Zeaman noted that there were representatives from Bussen Quarries and adjacent landowners present in the audience. He also presented an enlarged map to help define boundaries and other questions relating to the land descriptions being debated. Anyone interested in reviewing the map was asked to join the Commission. The Commission and audience members alike embarked on a long discussion with Mr.

Zeaman regarding the description of land to be permitted. It was also noted at that time that the subdivision was developed in 1982 while the quarry has been a working quarry since 1957.

Adjacent landowners, Michael Pfeifer of the Antire Valley Subdivision along with Andrea Nuckles, the trustee of the Antire Valley Subdivision Homeowners' Association were present to represent the subdivision. Prior to taking the podium, Mr. Pfeifer disputed the fact that the letters were not received by the Department prior to the deadline. He brought letters received, signed for and sent back to the Department of Natural Resources dated within the timeframe to show the Commission. Mr. Zeaman addressed this issue to clarify to the Commission the dispute over the questionable date. Mr. Zeaman explained that customarily letters were only accepted by the Department of Natural Resources from recipients that received letters from the Department of Natural Resources. There was a long discussion regarding this issue.

At this time, Mr. Pfeifer took the podium to seek answers to questions that he had regarding the permit application for Bussen Quarry. Mr. Pfeifer noted the transposition of the description of the land and stated that due to this error and it not being corrected it should by statute render the permit application null and void. This issue was debated and it was determined that the description although transposed could not describe any other piece of land and by him being at the Commission meeting he was aware of the piece of land that was described. Also, Mr. Pfeifer's main concern is how this would affect his "livelihood". When asked what the legal definition of "livelihood" is, Mr. Duggan, the program's attorney did not believe there was one, however he will take it to the Attorney General's office and work on case law that would define "livelihood". Without a clear definition it would be hard to understand the impact of the quarry on the landowners' "livelihood".

Another issue that Mr. Pfeifer and the Antire Valley Subdivision had was the fact that the quarry would be mining up to the property line. Mr. Pfeifer stated that mining up to the property line de-values the homes. According to Mr. Pfeifer the company has stated that they plan to mine up to the property line instead of maintaining the customary 1000 feet set back as described in Warranty Deeds.

Once again, Mr. Pfeifer brought up "livelihood". He stated that the Social Security Administration now defines home equity conversion as a source of retirement income. He noted that literature states that nearly 20% of retirement income comes from assets such as real estate. Mr. Pfeifer noted that he received a call from a concerned elderly resident who is worried about the effect of the quarry on her property.

Mr. Pfeifer explained that another problem is the karst geology in the area. His research has produced definitions claiming that karst limestone is spongy, fragile and unpredictable. He brought literature to give to the commission explaining how the

flow of rivers has been affected by karst geology by collapsing unknown channels within the karst.

Another issue discussed by Mr. Pfeifer is the statute stating that all landowners that have an interest must be notified of the permit application and Mr. Pfeifer believes that not all individuals were notified. Actually, he insisted that not all of the adjacent landowners were notified pursuant to the statute.

Also, the landowners have concerns related to the management of Bussen Quarry. One issue is blasting and as noted by Mr. Pfeifer there are no blasting regulations in Missouri and although he realized that this was not the forum to address regulations for blasting he still voiced his concerns. Mr. Pfeifer asked if the Commission had any questions for him. Although there were no questions, Dr. Haddock had a couple of points to make.

He noted that the Commission would not make decisions based on blasting. He suggested that private citizens need to contact their legislature if they feel this is an area of concern for their property. Also, the statute refers to direct landowners and their interest, not persons within a certain distance.

Dr. Haddock requested clarification of the part of the description that is wrong. Mr. Pfeifer explained what township and range are incorrect in the letter that he received. Although Mr. Pfeifer pointed out that there is an error in the mapping, Dr. Haddock, who is teaching a class in cadastral mapping and has experience in this area did note that there is only one township and range to fit the disputed description between that area and the Canadian border.

Mr. Pfeifer continued to argue that the law states the quarry must define in the letter sent to the landowners the correct description of the area to be permitted. He was emphatic about this and noted that the law states if the description is wrong in the letter that the application "shall be denied".

Mr. Mohammadi questioned the correct description and why the company did not accurately describe this piece of land on the application. The legal description on the application is correct; however, the county names in the newspaper and letters sent by certified mail were transposed. Steve Poplowski, attorney for Bussen Quarry stood while in the audience to address this question and any others presented by the Commission and/or audience members. He was then asked to take the podium. He addressed the issues presented by Mr. Pfeifer. Mr. Poplowski explained that the notices were correctly sent to those that had an interest in the quarry. As explained by the attorney the statutory portion of the notice was in fact met. He explained that the quarry had been a working quarry for many years and thus had presented no known problems to the property owners and the company intends to maintain the same high standard as previously.

Dr. Haddock reminded all in attendance that they must use the most current information available for mailing the notifications. He then moved that the Commission deny the hearing request for the Antire Valley Subdivision regarding the permit for Bussen Quarries. Ms. Garstang seconded the motion. Mr. DiPardo asked for a vote. Mr. Mohammadi wanted to table the issue to get more information and answers to questions that he had.

Mr. Coen, Staff Director for the Land Reclamation Program, emphasized that the Land Reclamation Program is short staffed and to be asked to conduct the landowner research on a regular basis would put a tremendous burden on the staff.

Once again, Mr. Mohammadi spoke up about needing more information. Mr. DiPardo asked for a vote on the previous motion to deny a hearing. There were 4 votes, "yes" and 1 vote, "no". A verbal vote was then taken by Ms. Myers and the votes are as follows: Ms. Garstang, "yes"; Dr. Haddock, "yes"; Mr. DiPardo, "yes"; Mr. Mohammadi, "no" and Mr. Matherly, "yes". The motion carried for denial of a hearing.

**GEORGIA-PACIFIC GYPSUM, INC.** Next, Mr. Zeaman of the Department of Natural Resources explained the hearing request concerning the Permit Transfer Application sought after by Georgia-Pacific Gypsum, Inc. in Crawford County.

Mr. Zeaman explained that on June 6, 2005, the Missouri Department of Natural Resources Land Reclamation Program received a permit transfer application from Georgia Pacific Gypsum, Inc. proposing to continue reclamation of a clay pit on three-acres in Crawford County. After the application was deemed complete the company published the public notice once a week, beginning on June 30, 2005, for four consecutive weeks in the *Cuba Free Press* a newspaper that is qualified to publish Public Notice's pursuant to Section 492.050 RSMo., in Crawford County. The company also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials. This proposed permit transfer application of a three-acre reclamation operation is located in Section 6, Township 39 North, Range 4 West in Crawford County. The timeframe for the proposed reclamation operation is to the year 2010.

The Staff director received five letters concerning the proposed transfer of the Charles Leezy Pit#1. One of the letters provided comments only. The Staff Director received three letters with the same verbiage requesting a public meeting and a hearing - there are a total of nineteen signatures on those three letters. The final letter from Edgar Remsprechi provided some comments and requested a public meeting and a formal hearing.

The Department did contact Georgia-Pacific Gypsum by mail to see if they would entertain a public meeting as identified in The Land Reclamation Act. During a telephone contact with Georgia Pacific Gypsum we learned that they would not



entertain a public meeting as identified in The Land Reclamation Act. Therefore, we present a request for a hearing before the Commission.

The Land Reclamation Act addresses the issues of Land Reclamation Permitting, Post Mining Land Uses and a request for a public meeting and formal hearing. The Department does regulate impacts to groundwater and landfills. The Department also provides regulatory authority at sites with historical value when those sites are associated with Federal Projects. The Department does not provide protection concerning the origin of material, travel way safety, road maintenance or blasting related issues.

On August 26, 2005, the Staff Director did inform the people requesting a hearing of the time, location of and how to prepare for the September 22, 2005 Commission meeting.

The Land Reclamation Act at Section 444.773.3, RSMo., requires that the Staff Director make a formal recommendation regarding the issuance or denial of an applicant's permit. In addition, the "Act" at 444.773.1, RSMo., requires the Director to consider any written comments when making the notice of recommendation. After consideration of comments provided in letters, it is the Director's recommendation to issue the permit transfer application involving three-acres in Crawford County sought after by Georgia Pacific Gypsum, Inc. The Staff Director did recommend approval of the pending transfer permit application, because the company has satisfied all the requirements of The Land Reclamation Act.

Representatives from Georgia Pacific Gypsum, Inc. and concerned citizens that requested a public meeting and hearing were in the audience, as was Jim Hull, the Solid Waste Management Program Director. Mr. Zeaman asked for questions that he could answer and there were none.

At that time, Mr. DiPardo asked the representative of the concerned citizens to take the podium. Ms. Margaret Helderle addressed the Commission. Another citizen, Ms. Rose Weber was connected for a conference call.

Ms. Helderle noted that Georgia Pacific Gypsum was filling at least 15 feet over the top of the clay pit. She also noted that the agreement was to fill three feet below the top of the pit and then cap it.

She also brought results of testing that she and other landowners had performed. She also noted that the results showed substances in the soil above the acceptable level or out of range. The particular substances, with higher than allowed levels, are known to cause liver cancer and respiratory problems. She also had a travel way issue regarding the dump trucks, but did realize that the Commission meeting was not the forum to address that issue.

Ms. Weber, another landowner on the conference call, voiced her concerns over the proximity of her home to the quarry and the high levels of respiratory illness causing agents that were present in the material. She has young children and concerns over their well being. She requested that the company conduct tests at their expense on the landowners' water.

Georgia Pacific Gypsum representatives were next to speak. Scott Abolt, Plant Manager at Cuba, MO in Crawford County was next to address the Commission. He brought with him the Process Engineer and a representative from the Corporate Environmental Agency in Atlanta.

The Plant Manager emphasized that the company prided itself on being environmentally friendly. He said that they do everything within the guidelines. He also brought a power point presentation that he presented to the audience and the Commission. He noted that the company is following the guidelines set forth by the permit and the solid waste program.

Mr. Abolt described what was in the material and Ms. Weber then questioned why other substances were found in the material that they tested. Then the subject of soil contamination became an issue. A debate then ensued as to what is actually being tested. Perhaps, the company and the landowners are testing for different substances.

Jim Hull, from the Solid Waste Program spoke next and felt that the company was working within the guidelines set forth. Mr. Hull proposed an independent site-sampling test. Mr. Abolt, the plant manager, agreed to this test and he also agreed to pay for the test and reimburse the homeowners for the previous test.

Mr. Hull noted that the approval of the permit was based on the test results submitted by the company. The continued approval will be based on the new test results, which will be submitted to the Department.

It was agreed that a representative from the company and a landowner will take a sample of the material and have it sent to an independent/third party lab for testing.

Mr. Mohammadi made a motion to table this issue until the November commission meeting. When the new test results are received they can be presented to the commission. Dr. Haddock seconded the motion. Motion carried unanimously.

Next on the agenda, Mr. DiPardo asked for an update on the "change notification form". Mr. Zeaman stated that at the last commission meeting the Commission requested that the "instruction wording" be changed. Staff did note that the instructions had been changed in the public notification letter. Mr. Zeaman asked if the Commission had any additional comments or any wording to be added to the letter. At the time of the September 2005 Commission meeting there were no additional changes.

**AMENDMENTS TO "THE LAND RECLAMATION ACT" PRESENTED BY TOM CABANAS:** On August 28, 2005, the provisions of House Bill 824 went into effect. This bill, in part amended "The Land Reclamation Act", sections 444.760 to 444.790 RSMo, to specifically exempt development projects from the permitting requirements that are imposed upon surface mining operations. This bill also included language about permit appeals going before the Administrative Hearing Commission.

It is suggested that the Commission form a work group to develop rules to fully implement these statutory changes. In the past, the Commission designated a Commissioner and invited various members of industry, state agencies, environmental groups and other interested individuals to participate in a rulemaking workgroup. The staff will develop a set of draft rules to serve as a starting point and the final product of the work group will serve as the draft that the department will use to promulgate the final rules. We recognize this will be a lengthy process and we will need to implement some of the statutes this fall, relying on the language of the statutes without the benefit of new rule language. We will manage this as best we can.

It is the recommendation of the staff that the Commission approves the workgroup concept and designates a Commission representative for that group. Dr. Haddock asked Mr. Cabanas who the committee member from the Commission would be. Mr. Cabanas asked that the Commission choose a member.

Dr. Haddock made a motion to form a workgroup as recommended and work on membership. Mr. Mohammadi seconded the motion. The motion carried unanimously.

**MIKE LARSEN - COAL BOND LIABILITY RELEASE APPLICATIONS:** There are three applications for the Associated Electric Cooperative, Inc. (AECI), Prairie Hill Mine. The first bond liability release application, PP-05-04, Permit 1989-02 is for a Phase I and II release on 4.5 acres and a Phase II on 198.96 acres with a total bond liability release of \$10,800.00.

The second bond liability release application, PP-05-05, Permit 1991-03 is for a Phase II release on 49.9 acres with a bond liability of \$00.00

The third bond liability release application, PP-05-06, Permit 1991-03 is for a Phase II release on 71.2 acres with a bond liability of \$00.00.

Dr. Haddock made a motion to approve these three coal bond liability release applications. There was a second by Ms. Garstang. The motion carried unanimously

**MIKE LARSEN - COAL BOND FORFEITURE LIABILITY RELEASE REQUESTS:** The Land Reclamation Program's bond forfeiture staff has evaluated

the following former coal mine sites during the past two months and is hereby presenting them to the Commission for their liability release consideration. These are all state forfeiture sites with reclamation completed by the program following permit revocation and forfeiture of the posted bonds of the original coal mining permittees.

All sites have been inspected jointly with the Office of Surface Mining and, in addition, all current landowners of record have been notified via certified mail that these sites are to be recommended for complete and final liability release at this meeting of the Land Reclamation Commission. As of September 7, 2005, no comments or objections have been received.

The four sites to be released are: Yates Energy and Development Corp., West Pit, Permit numbers 1984-01 and 1982-31, 95 acres; Universal Coal and Energy Co., Inc., Yates Processing Plant, Permit number 80-67 (Interim Law), 40 acres; Universal Coal and Energy Co., Inc., Mine #7, Permit numbers 78-37-A1 (Interim Law), 1981-10 Inc. #3 (Part-20 acres will remain under this increment until the November 2006 meeting), 1983-18, 1982-27, 1982-10, 268 acres and Universal Coal and Energy Co., Inc., Howard County Processing Plant, Permit number 1981-10 (increments #1 and #4), 73 acres.

Mr. Larsen presented photos of the land and recommended that Yates Energy and Development Corp., West Pit, Universal Coal & Energy Co., Inc., Yates Processing Plant and Universal Coal & Energy Co., Inc., Mine #7, as all necessary reclamation has been accomplished, the Missouri Land Reclamation Commission release the state from all further liability for these former coal mine sites. Mr. Larsen asked that before a decision is made on Universal Coal and Energy Co., Inc., Howard County Processing Plant, Mr. Alan Leonard, property owner of this land would like to address the Commission.

Dr. Haddock made a motion to release Yates Energy and Development Corp., West Pit, Universal Coal and Energy Co., Inc., Yates Processing Plant and Universal Coal and Energy Co., Inc. Mine #7. Mr. Matherly seconded the motion. Motion carried unanimously.

At this time, Mr. DiPardo asked Mr. Leonard to take the floor and present his concerns. It is noted that Mr. Leonard was very emphatic and emotional in his presentation to the Commission and DNR staff. He does not believe that this land should be released as he believes that more work needs to be completed by the Department before it is released. He brought photographs to show the Commission to further illustrate what he believes still needs to be completed on the land. Mr. Leonard asked that the request to release this property be denied and he also asked that the land be reclaimed properly.

Dr. Haddock asked Mr. Larsen if he would be willing to make a site visit with Mr. Leonard and look at the property. Mr. Larsen agreed to do this. It was also agreed

upon that Mr. Larsen would take Mr. Gene Noe to the site since Mr. Noe has worked with Mr. Leonard previously on this reclamation.

Dr. Haddock made a motion to table this issue until Mr. Larsen and Mr. Noe can meet with Mr. Leonard at the property in question. Ms. Garstang seconded the motion. Motion carried unanimously.

**MIKE LARSEN - PROPOSED COAL BONDING RULEMAKING - FINDING OF NECESSITY:** The Land Reclamation Program (LRP) has been advised by the Office of Surface Mining (OSM) that in order to regain full primacy of the coal program a change in the bonding regulations for surface coal mining must be in place. This change will result in the elimination of the "pool" approach to bonding by coal operators. In place of the "bond pool" will be a "full cost" approach to bonding of future coal mining permits. What this means is that instead of a set, per acre bond amount, a determination will be made as to the full cost of reclaiming a surface coal mine. This will then be the full amount of bonding that will be required to be posted by the applicant for a surface mining permit before issuance by the LRP.

In response to this request to change the current regulations by OSM, the LRP has begun the process of changing the current regulations with respect to bonding. The first step has been taken by the program which is to request the authority to begin a rulemaking from the department's Division of Environmental Quality and that division's legal counsel. Both entities have reviewed this request to begin a rulemaking and have granted their approvals.

The revised regulations regarding bonding have already been drafted and discussion with OSM has already taken place. In the near future, discussions with the coal industry and any other interested parties will take place in order to finalize the draft rules and propose them through a formal filing with the Secretary of State.

The purpose of this discussion is to advise the Land Reclamation Commission that this rulemaking process is poised to formally begin and to request that the commission sign a "Finding of Necessity" which is a statutorily required document and a part of the rulemaking process. Additional updates regarding these rules will be provided to the commission at future meetings.

It is the staff's recommendation that the commission sign the "Finding of Necessity" form for these rule amendments and instruct the staff to proceed with the development of the proposed rulemaking.

Pursuant to 536.016 RSMo and the DNR Rulemaking Policy and Procedures, the Missouri Department of Natural Resources' Land Reclamation Commission finds on September 22, 2005, that the amendments to 10CSR40 - 7.011; 10CSR40 -7.021; 10CSR40 - 7.031 and 10CSR40 - 7.041 are necessary to carry out the purposes of Chapter 444 of the Revised Statutes of Missouri.

Ms. Garstang made a motion to sign the “Finding of Necessity” form. Dr. Haddock seconded the motion. Motion carried unanimously. The Commission signed the statutory required document.

**Comments from the Public**

Mr. DiPardo asked if there was any other business or comments from the audience. No other business or comments were presented.

**Closed Session**

At that time, Mr. Matherly made a motion for the Land Reclamation Commission to meet in closed session at 8:30 a.m. on November 16, 2005, to discuss personnel actions, legal actions, causes of actions or litigation as provided for in Section 610.021 RSMo. Dr. Haddock seconded the motion. Motion carried unanimously.

**Adjournment**

The meeting adjourned at 1:55 p.m.

Respectfully submitted,

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Chairman

